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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,681	04/04/2006	Sacha Felder	3621	1764

7590
Striker, Striker & Stenby
103 East Neck Road
Huntington, NY 11743

EXAMINER

DEXTER, CLARK F

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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06/23/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/574,681	Applicant(s) FELDER, SACHA	
	Examiner Clark F. Dexter	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 2,7-9,11-18,22,23,26,27 and 31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,10,19-21,24,25 and 28-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 22, 2010 has been entered.

Election/Restrictions

2. Newly submitted claim 31 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claim 31 includes subject matter that has been withdrawn (e.g., compare lines 2-3 of claim 31 with withdrawn claim 18).

Applicant has received an action on the merits for the originally elected invention for prosecution on the merits. Accordingly, claim 31 has been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Objections

3. Claim 12 (withdrawn) is objected to because of the following informalities:

The status identifier is inaccurate and should read --(withdrawn)--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112, 1st paragraph

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1, 3-6, 10, 19-21, 24 and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The original disclosure does not provide support for the tool comprising a housing and a barrel grip. Rather, support is provided for a barrel grip that is part of the housing (i.e., a portion of the housing forms the barrel grip as described in the paragraph beginning on page 6, line 6 of the present specification).

Further, the original disclosure does not appear to provide support for an on-off switch "integrally joined" to the electrical switch (which is set forth as being located inside the housing) as now set forth in claim 1, line 5; or for a further on-off switch "integrally joined" to the previously referenced electrical switch as now set forth in

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claim 1, line 21. Rather, support is provided for an electrical switch 86 located inside the housing, wherein both on-off switches 18 and 28 are connected with the electrical switch 86 via linkages including members 78 and 84, respectively.

Claim Rejections - 35 USC § 112, 2nd paragraph

6. Claims 1, 3-6, 10, 19-21, 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 3, the recitation “activate and activate” is vague as to what is being set forth in that it is redundant; in lines 5 and 21, the recitation “integrally joined” is vague and indefinite as to what structure or structural relationship is being set forth.

In claim 28, lines 5-6, the recitation “at least largely decoupled” is vague and indefinite as to what is being set forth.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable Sorenson, pn 3,378,662 and Peot, pn 4,296,290.

Sorenson discloses a tool with almost every structural limitation of the claimed invention including:

- a handle (e.g., 24),
- an on-off switch (e.g., 46) at least partially integrated into said handle, and
- a locking mechanism for locking said on-off switch, wherein the locking mechanism includes an actuating element (e.g., 57).

Peot also discloses a similar structure of an on-off switch (e.g., 12) and a locking mechanism that includes an actuating element (e.g., 28). Thus, Sorenson and Peot each lacks a second locking mechanism actuating element as follows:

wherein said locking mechanism has at least two at least largely decoupled actuating elements; wherein said actuating elements are situated on opposite sides of said handle, wherein said opposite sides of said handle are located in two parallel planes and wherein said on-off switch is located on a further side of said handle located on a plane that is perpendicular to the planes of said opposite sides of said handle.

[claim 30] wherein said actuating elements are comprised of separate components.

However, it would have been obvious to one having ordinary skill in the art to provide a second such locking mechanism actuating element on an opposite side of the handle of Sorenson to gain various well known and obvious benefits, particularly to facilitate use of the tool with the opposite hand. Therefore, it would have been obvious to one having ordinary skill in the art to provide a second such locking mechanism

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actuating element opposite the one disclosed by Sorenson and Peot to gain the well known benefits including that described above.

Claims Not Rejected Over Prior Art

9. Claims 1, 3-6, 10, 19-21, 24 and 25 are considered to read over the prior art of record because the prior art or record does not teach or suggest the claimed combination of features including the on-off switches being “integrally joined” to the electrical switch located inside the housing as claimed. However, these claims **cannot** be considered to be “allowable” at this time due to the rejection(s) under 35 U.S.C. 112, 1st paragraph set forth in this Office action. Therefore, upon the claims being rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action, further consideration of these claims with respect to the prior art will be necessary.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/
Primary Examiner, Art Unit 3724**

cfd
June 20, 2010